

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fendley	Team: Squad #5	CCRB Case #: 201400254	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury		
Incident Date(s) Sunday, 01/12/2014 2:45 AM	Location of Incident: § 87(2)(b)		Precinct: 49	18 Mo. SOL 7/12/2015	EO SOL 7/12/2015
Date/Time CV Reported Mon, 01/13/2014 12:41 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 01/13/2014 12:41 PM		

[illegible]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			049 PCT
2. POM Robert Santangelo	30616	920806	049 PCT
3. POM Ryan Conroy	21750	936379	049 PCT
4. POM James Lagaris	20347	945224	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Jeandavid Laplanche	02274	928618	049 PCT
2. POF Laurie Sabatano	07272	953356	049 PCT
3. POM Michael Hayes	9999	952836	049 PCT
4. POM Angel Gonzalez	15493	952792	049 PCT
5. POM Serey Toun	12182	953491	049 PCT
6. POM Louis Cardenas	28189	936303	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
7. POF Christine Winter	16237	953573	049 PCT
8. SGT Christophe Kirchoff	02697	941126	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ryan Conroy	Abuse: PO Ryan Conroy entered § 87(2)(b) in the Bronx.	
B.POM Ryan Conroy	Force: PO Ryan Conroy used physical force against § 87(2)(b)	
C.POM Ryan Conroy	Discourtesy: PO Ryan Conroy spoke rudely to individuals.	
D.POM James Lagaris	Discourtesy: PO James Lagaris spoke rudely to individuals.	
E.POM Robert Santangelo	Discourtesy: PO Robert Santangelo spoke rudely to individuals.	
F. Officers	Discourtesy: Officers spoke rudely to individuals.	
G.POM Ryan Conroy	Abuse: PO Ryan Conroy damaged the property of § 87(2)(b) and § 87(2)(b)	
H.POM Robert Santangelo	Discourtesy: PO Robert Santangelo spoke rudely to § 87(2)(b)	
I.POM Robert Santangelo	Force: PO Robert Santangelo used pepper spray against individuals.	
J.POM James Lagaris	Force: PO James Lagaris used pepper spray against individuals.	
K.POM Ryan Conroy	Force: PO Ryan Conroy used physical force against § 87(2)(b)	
L.POM Ryan Conroy	Abuse: PO Ryan Conroy detained § 87(2)(b)	

Case Summary

There are two videos of this incident, taken via cell phone during the incident (encl. 4 AF-AG).

At approximately 2:45 a.m. on January 12, 2014, PO Ryan Conroy and PO James Lagaris, both of the 49th Precinct, approached § 87(2)(b)'s apartment located at § 87(2)(b), in the Bronx because they heard loud music from a family party. § 87(2)(b) refused to provide her identification to the officers so PO Conroy entered her apartment and attempted to pull her out (**Allegations A and B**). § 87(2)(b) and other civilians present pulled § 87(2)(b) from PO Conroy. PO Conroy, PO Lagaris and PO Robert Santangelo of the 49th Precinct, who had responded to a call for backup, told everyone to get the “fuck” back (**Allegations C, D and E**). Other officers from the 49th Precinct who had responded to the call for backup also told everyone to get the “fuck” back (**Allegation F**). It was alleged that PO Conroy broke a glass armoire in the front of § 87(2)(b)'s house during the struggle to gain control of her (**Allegation G**). It was also alleged that during the struggle, § 87(2)(b)'s watch broke and § 87(2)(b) lost her wedding band (**subsumed in Allegation G**). § 87(2)(b) requested to speak with a sergeant and PO Santangelo told her that his sergeant was “out-fucking-side” (**Allegation H**). All civilians in the apartment were yelling at officers and in order to gain control of them, PO Santangelo and PO Lagaris pepper sprayed them all (**Allegations I and J**). It was also alleged that after § 87(2)(b) was taken outside and handcuffed, PO Conroy stomped on his back (**Allegation K**). It was alleged that PO Conroy pulled § 87(2)(b) outside, twisted her arm (**subsumed in Allegation B**) and handcuffed her (**Allegation L**). The incident concluded with § 87(2)(b) being taken to the stationhouse and released with a summons for § 87(2)(b).

Mediation, Criminal Histories and Civil Proceedings

Mediation was unsuitable for this case. § 87(2)(b)

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the City of New York with regard to the incident as of August 29, 2014, which is four months past the 90-day filing expiration. § 87(2)(b)

§ 87(2)(b) filed a Notice of Claim with the City of New York on April 10, 2014,

claiming physical and mental pain and seeking a total of one hundred and forty two million dollars as redress (encl. 7 A-R).

Civilian and Officer CCRB Histories

- PO Conroy has been a member of the service for nine years and he has one prior case where various allegations were closed as complainant uncooperative. § 87(2)(g)
- PO Lagaris has been a member of the service for seven years and he has two prior cases where various allegations were closed as unfounded, exonerated and unsubstantiated. § 87(2)(g)
- PO Santangelo has been a member of the service for seventeen years and the only substantiated allegation against him was for premises entered and/or searched, under case #201306001. Charges were recommended, but the trial is still pending (encl. 1 C).
- This is the first CCRB complaint involving § 87(2)(b) (encl. 1 D-S).
- § 87(2)(b)
- § 87(2)(b)

Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(g)

Identification of Subject Officers

PO Conroy, PO Lagaris and PO Santangelo all acknowledged interacting with the victims. § 87(2)(b) alleged that the first officer who entered her apartment and the officer who grabbed her used force against both her and § 87(2)(b). PO Conroy confirmed that he was first to enter § 87(2)(b)'s apartment and that he grabbed her. § 87(2)(g)

Allegation A – Abuse of Authority: PO Ryan Conroy entered § 87(2)(b)
§ 87(2)(b), in the Bronx.

It is undisputed that PO Conroy entered § 87(2)(b)'s apartment. It is also undisputed that the civilians did not want any officers to enter the apartment.

PO Conroy said that he and PO Lagaris were responding to a call for a noise complaint, at a different location, when they heard loud music coming from § 87(2)(b)'s apartment. PO Conroy and PO Lagaris parked their vehicle and approached § 87(2)(b)'s apartment in order to tell her to lower her music. PO Conroy requested § 87(2)(b)'s identification, but his intent at that point was only to write her information down on his fly page in case there was an actual noise complaint about her apartment later that evening. § 87(2)(b) refused to provide her identification and PO Conroy said that while he was standing just outside of her doorway, he reached into her apartment in order to pull her out. PO Conroy explained that he did so because he wanted to speak with her one on one to obtain her identification information. PO Conroy also explained that once he obtained § 87(2)(b)'s identification information, he was going to write it down on a fly page in his memo book so that if he received a noise complaint for that address later on in the evening he could still write a summons if nobody answered the door. PO Conroy did say that he was pulled into the apartment by an unidentified civilian. However, he confirmed when he was pulled in his arm was already through the threshold and was inside of the apartment (encl. 5 F-I).

Generally, officers entering a residence to perform an arrest must possess a warrant. Exceptions to this rule include situations involving consent, an emergency or exigent circumstances. People v. Lewis, 94 A.D.2d 44 (1st Dept. 1983) (encl. A-E); People v. Greenleaf, 634 N.Y.S. 2d 892 (3rd Dept. 1995) (encl. F-G); People v. McBride, 14 N.Y.3d 440 (2010) (encl. H-N).

For a situation to be considered an emergency, 1) officers must have reasonable grounds to believe that immediate assistance is necessary for the protection of life or property; 2) the entry cannot be motivated by the intent to arrest or seize evidence, and 3) there must be some reasonable basis, approximating probable cause to connect the location to be searched with the emergency. *People v. Dallas*, 8 N.Y.3d 890 (2007) (encl. O-P).

According to McBride, the following factors have been used to determine if exigent circumstances exist: (1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. McBride, at 446.

§ 87(2)(g)

[illegible]

Allegation B – Force: PO Ryan Conroy used physical force against § 87(2)(b)

It is undisputed that PO Conroy grabbed § 87(2)(b) § 87(2)(b) said that when she refused to provide her identification to PO Conroy, he reached into her apartment to physically pull her out by her arm. However, members of her family grabbed her other arm, creating a “tug of war” with § 87(2)(b) (encl. 4 A-E).

PO Conroy said that he grabbed § 87(2)(b) s wrist because he thought it would be easier to speak with her one on one outside and away from other people. PO Conroy grabbed § 87(2)(b) with the intent of taking her outside to speak with her in order to obtain her identification information. Once PO Conroy received her information, he was going to write it on his fly page so that if he had to respond to the location later on, he would not have to ask for her identification and could write a summons if no one answered the door.

According to Patrol Guide Procedure 203-11, an officer must use minimum necessary force (encl. Q-R).

§ 87(2)(g)

Allegation C – Discourtesy: PO Ryan Conroy spoke rudely to individuals.

Allegation D – Discourtesy: PO James Lagaris spoke rudely to individuals.

Allegation E – Discourtesy: PO Robert Santangelo spoke rudely to individuals.

Allegation F – Discourtesy: Officers spoke rudely to individuals.

It is undisputed that both civilians and officers were yelling at and pushing each other.

There were about thirty people inside of § 87(2)(b) s apartment, about twenty adults and ten children. § 87(2)(b) said that PO Conroy grabbed her arm and attempted to pull her out of the apartment, but her brothers, § 87(2)(b) and § 87(2)(b) grabbed her other arm to prevent her from being pulled outside. § 87(2)(b) alleged that at that point, PO Conroy told everyone to back the “fuck” up. § 87(2)(b) alleged that during the incident PO Lagaris told him to step the “fuck” back. Also, on Video 1 (encl. 4 AF), an officer, it is unclear which one, can be heard telling civilians to get the “fuck” out of his way.

PO Conroy said that no officers used profanities. PO Lagaris said that he may have told some individuals to step the “fuck” back, but he did not use any other profanities and did not hear officers use additional profanities (encl. 5 N-P). PO Santangelo said that he and other officers told individuals to step the “fuck” back, but he said it at the crowd and not towards any one specific person. He also said it when individuals were trying to close the front door with officers still inside of the apartment (5 W-Y). PO Conroy, PO Lagaris and PO Santangelo were the only officers inside of the apartment and past the entryway at that point. All officers were consistent in the fact that civilians and officers were pushing each other inside of the apartment.

According to Patrol Guide Procedure 203-09, officers must be courteous and respectful when dealing with the public (encl. BD). However, officers may use limited profanity where necessary to maintain control or gain compliance during stressful street encounters, PD v. Court (DCT no. 79627/04) (encl. S-AB).

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Abuse of Authority: PO Ryan Conroy damaged the property of § 87(2)(b)
and § 87(2)(b)

§ 87(2)(b) alleged that during the struggles between officers and individuals in her apartment, PO Conroy broke her glass cabinet and her wedding band was lost. § 87(2)(b) said that when PO Conroy attempted to pull § 87(2)(b) outside, he grabbed § 87(2)(b) as well. § 87(2)(b) alleged that during the struggle, his watch broke (encl. 4 P). In video #2 (encl. 4 AG), glass can be heard breaking, but PO Conroy, PO Lagaris and § 87(2)(b) were all standing near the glass cabinet at the time. The video does not actually show the part of the cabinet that was breaking so it is unclear if it was even broken by an officer. Regarding the wedding band and the watch, neither § 87(2)(b) nor § 87(2)(b) provided evidence of their lost or damaged property. Further, neither of the videos depicted those allegations.

PO Conroy, PO Lagaris, PO Santangelo, Sgt. Laplanche (encl. 5 AD-AE), PO Sabatano (encl. 5 AL-AM), PO Toun (encl. 5 AR-AS) and PO Gonzalez (encl. 5 AW-AX) were all consistent in the fact that they did not see an officer break a glass cabinet or cause the loss of a wedding band or a broken watch as a result of the struggles. PO Lagaris did hear glass break while he was in the apartment, but he did not see it occur so he did not know how it was broken or by whom it was broken. Sgt. Laplanche remembered the glass cabinet, but said that he did not see any damage to it. PO Santangelo did not see a civilian's watch break as a result of the struggles, but he mentioned that he lost his watch as a result of them.

§ 87(2)(g)

Allegation H – Discourtesy: PO Robert Santangelo spoke rudely to § 87(2)(b)

As seen in video #2 of the incident (encl. 4 AG), § 87(2)(b) screamed for PO Santangelo to go and call his sergeant and Sgt. Santangelo answered that his sergeant was “out-the-fuck-side.”

PO Santangelo remembered that he told many people to back the “fuck” up when he was at the front of the apartment and they were attempting to shut the front door with other officers still inside of the apartment. He did not believe he used any profanities other than that, but he was not positive.

According to Patrol Guide Procedure 203-09, officers must be courteous and respectful when dealing with the public (encl. BD). In limited circumstances, profanity is permissible where the officer has resorted to such language in order to maintain control or to gain compliance with an order in the heat of a highly dangerous situation. PD v. White, OATH Index No. 78667/03 (2004)(encl. AC-AN).

In the case at hand, PO Santangelo did not speak courteously to § 87(2)(b) and he did not maintain his professionalism throughout his conversation with her. He was not giving § 87(2)(b) an order and his use of profanity was not used to gain compliance. PO Santangelo's use of the word "fuck" had absolutely no significance in terms of police action, which is in violation of Patrol Guide Procedure 203-09.

§ 87(2)(g)

Allegation I – Force: PO Robert Santangelo used pepper spray against individuals.

Allegation J – Force: PO James Lagaris used pepper spray against individuals.

It is undisputed that PO Santangelo and PO Lagaris used pepper spray against § 87(2)(b)

and § 87(2)(b)
(For civilians' pedigree information see encl. 4 AH-AI).

PO Santangelo said that the only reason he used his pepper spray was because PO Conroy was inside of the apartment alone and civilians were attempting to close the door with him alone inside. While all officers were consistent in the fact that the civilians were trying to shut the door, PO Conroy and PO Lagaris said that they were both inside of the apartment when pepper spray was used. PO Santangelo used his pepper spray from the entryway of the apartment and did a blanket spray, spraying one two second long spray from left to right towards the twenty civilians located at the front door. PO Santangelo had no idea how many people he sprayed as a result.

PO Lagaris said that he was located in the kitchen, about five feet into the apartment, when he felt spray on his face, making him get choked up. During his CCRB interview, PO Lagaris said that it was possible the spray was pepper spray from another officer. However, at the time of the incident, PO Lagaris thought that an individual had sprayed him in the face with perfume. Because PO Lagaris started to get choked up and he did not want to be blinded, he took his pepper spray out and sprayed for one second, from the left to the right, in front of himself.

According to Patrol Guide Procedure 212-95, an officer may only use pepper spray to; protect themselves from assault or effect an arrest of someone who is resisting or fleeing from custody (all of which must be recorded as resisting arrest in the arrest report), establish control of an emotionally disturbed person or to control a dangerous animal. It is also noted that officers must avoid using pepper spray on those in frail health and young children and must avoid discharging pepper spray indiscriminately over a large area for disorder control (encl. AO-AR).

§ 87(2)(g)

During his CCRB interview, PO Conroy said that he believed everyone at the incident location should have been arrested for obstructing governmental administration. However, Sgt. Laplanche made the decision not to do so.

A police officer may arrest and take into custody a person when he has probable cause to believe that person has committed a crime, or offense, in his presence. People v. DeBour, 40 N.Y.2d 210 (1976) (encl. AS-BC). According to New York State Penal Law 195.05, a person is guilty of obstructing governmental administration when they prevent a public servant from performing an official function (encl. BI).

§ 87(2)(g)

[REDACTED]

Pod: 5

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date